IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NOS. 2133 TO 2136 OF 2007

Bhavika Vidya Prasarak Mandal & Others..... ..... Petitioners
V/s
The Education Officer & Others..... ..... Respondents.

Mr.Amber Joshi, Adv. for the petitioner.

Mr.N.R.Bubna h/f Mr.Mandar Limaye, adv. For respondent No.2 in all writ petitions.

CORAM: A.P. DESHPANDE, J.
13.4.2007

PC:

All these four petitions are filed by the Education Society challenging the judgment and order passed by the School Tribunal which goes to quash and set aside the order of termination and grants reinstatement and other incidental reliefs. The respondent No.2 in each of these petitions was working as assistant teacher in the recognized school administered by the petitioner. The said four teachers were terminated from the end of academic sessions 2005-2006 i.e. with effect from end of April, 2006. Aggrieved by their termination the employees filed respective appeals before the Presiding Officer, School Tribunal. Each of the respondent No.2 contended before the Tribunal that he is in continuous service and had assumed permanency and confirmation in view of mandate of section 5 sub-section (2) of the Maharashtra Employees of Private Schools (Conditions of Service)Act, 1977. The said provision lays

down that on satisfactory completion of two years probation the employee shall be deemed to be confirmed. The respondent No.2 in Writ Petition Nos.2134 and 2135 of 2006 were appointed from the commencement of academic sessions in the year 1998 whereas respondent No.2 in Writ Petition Nos.2133 and 2136 of 2006 were appointed in the year 2003. It is thus clear that at the time of their termination respondent No.2 in two petitions had completed three years service whereas respondent No.2 in other two petitions had completed eight years of service respectively. All the employees possesses requisite eligibility qualification and are trained teachers. For no reason their services came to be terminated. In the reply filed before the school Tribunal the petitioner tried to contend that all the employees are temporary employees and have no right to the post. Not even one document was placed on record of the Tribunal by the present petitioner to indicate that the employees concerned were temporary employees. The petitioner submitted before the Tribunal that the entire school record was lost and destroyed on account of heavy rains. The petitioner did not attempt to call the record from the Education Officer before the school tribunal. In the absence of any material placed on record by the Society to substantiate their plea that all the employees were temporary employees, the Tribunal proceeded to hold that as two employees have completed three years continuous service and other two employees have completed eight years of service the employees have acquired deemed confirmation in service. What is relevant to note is that all the employees are trained teacher and have completed the above referred period of service satisfactorily and if that be so, then the Tribunal is justified in drawing the presumption in favour of the employees about they having assumed status of deemed confirmed employees under section 5 sub-section (2)

of the Act.

2. Perused the judgment and order passed by the Tribunal. Same does not call for any interference. Suffice it to point out that even in these writ petitions nothing has been placed on record to justify the stand of the petitioner that the the employees continued to be temporary, even though they have completed eight and three years service. There being no merit in writ petitions same are summarily dismissed.

13.4.07.